

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:20-cv-00062-MOC-DSC**

ACCELERATION ACADEMIES, LLC,
Claimant/Plaintiff,
v.
CHARLESTON ACCELERATION
ACADEMY, INC.,
Respondent/Defendant/Counterclaimant.

ORDER

THIS MATTER comes before the Court on the Motion of Claimant/Plaintiff, Acceleration Academies, LLC (“AA”), to Enforce Supersedeas Bond. [D.E. 36]. Pursuant to Rule 65.1 of the Federal Rules of Civil Procedure, AA seeks to enforce liability on the supersedeas bond posted by Respondent/Defendant’s surety, United States Fire Insurance Company (the “Surety”), for the amounts owed under this Court’s April 24, 2020, order and judgment. The Court finds as follows:

1. On April 24, 2020, this Court entered an order and judgment in favor of AA. [D.E. 23]. This judgment included a monetary judgment against Charleston Acceleration Academy, Inc. (“CAA”) in the amount of \$859,142,41, in accordance with this Court’s confirmation of an arbitration award in favor of AA by the American Arbitration Association.

2. CAA appealed and then moved to stay the judgment’s enforcement pending its appeal. [D.E. 24, 28]. This Court granted CAA’s motion, conditioned on CAA’s posting a bond for half the judgment amount. [D.E. 31]. United States Fire Insurance Company, as Surety, posted Supersedeas Bond No. 615179239 in the amount of \$429,571 (the “Bond”). [D.E. 32]

3. The Fourth Circuit has issued an opinion and judgment fully affirming this Court’s rulings. [D.E. 33]. The Fourth Circuit’s mandate has issued [D.E. 35], which automatically lifts the stay of enforcement.

4. Under Rule 65.1, a prevailing party on an appeal may initiate summary proceedings against a surety to enforce its liability on a supersedeas bond. Here, the amount owed on the judgment exceeds the Surety's bond amount of \$429,571—thus, the Surety should be directed to pay the full bond amount to AA.

5. In addition to the judgment amount AA is entitled to post-judgment interest. The post-judgment interest should be calculated “from the date of the entry of the judgment, at a rate equal to the weekly average 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the calendar week preceding ... the date of the judgment.” 28 U.S.C. § 1961(a). Likewise, “[i]nterest shall be computed daily to the date of payment ... and shall be compounded annually.” 28 U.S.C. § 1961(b).

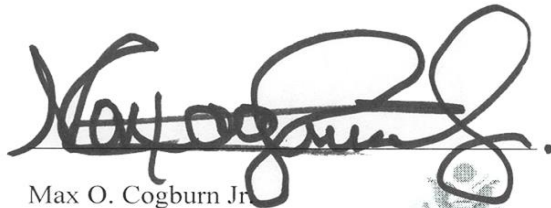
6. Here, the post-judgment interest rate is .208% for the applicable week of April 12, 2020 (the week preceding the judgment). The amount of post-judgment interest that has accrued at that rate from April 24, 2020, through August 3, 2021, is \$2,281.51. Post-judgment interest will continue to accrue at \$4.90 per diem until paid.

7. Adding the post-judgment interest of \$2,281.51, the total amount owed on the judgment as of August 3, 2021, is \$861,423.92. This amount exceeds the Surety's bond amount of \$429,571. Accordingly, the Surety is obligated to pay AA the full amount of its bond in partial satisfaction of the judgment.

8. CAA has consented to the Motion and the enforcement of the full supersedeas bond posted by the Surety. AA served the Surety with the Motion through service on the Clerk of Court, pursuant to Rule 65.1, as well as via regular mail and overnight delivery.

Based upon these findings, the agreement of the parties and for good cause shown, **IT IS HEREBY ORDERED** that AA is entitled to enforce the supersedeas bond against the Surety in the amount of \$429,571 and the Surety shall, within ten days of entry of this Order, pay such amount to AA in partial satisfaction of the judgment. Upon United States Fire Insurance Company's issuance of payment under the Bond, in the amount of \$429,571, the Bond shall be discharged, and the Surety its parents, affiliates, agents, and subsidiaries released from any and all liability thereunder. To this extent, the Motion to Enforce Supersedeas Bond, [D.E. 36], is **GRANTED**.

Signed: August 27, 2021



Max O. Cogburn Jr.
United States District Judge